

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

ALEXANDER JAMES BURKE

CRIMINAL NO. 14-565

HONORABLE JOEL H.  
SLOMSKY

**ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_ 2016, it is hereby **ORDERED** that Siemens Corp. promptly supply defense counsel with all subpoenaed materials previously ordered by this Court and all items of the subpoena of Exhibit C previously served on Siemens on 3 March 2016 forthwith.

BY THE COURT:

\_\_\_\_\_  
HONORABLE JOEL H. SLOMSKY

Alexander J. Burke, Esquire  
848 N Rainbow Blvd, #4821  
Las Vegas,  
NV, 89107  
Tel 973 826 7003  
[burkeaj@hotmail.com](mailto:burkeaj@hotmail.com)  
*Attorney & Defendant Alexander Burke*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

vs.

ALEXANDER JAMES BURKE

CRIMINAL NO. 14-565

HONORABLE JOEL H.  
SLOMSKY

**ALEXANDER BURKE'S MOTION TO MOTION TO COMPEL DISCOVERY  
AND ANSWER DEFENDANT'S SUBPOENA**

COMES NOW, Alexander Burke, Esquire, counsel and Defendant and respectfully requests this Honorable Court to grant this motion pursuant to F.R.C.P. 16(a)(1)(E) and F.R.C.P. 17(c)(3) and compel Siemens Corp to answer defendant's subpoena and supply defense counsel with all subpoenaed materials, and in support thereof avers:

1) Defendant is scheduled for a jury trial to begin on November 28, 2016.

- 2) Defendant, by and through counsel, issued a subpoena duces tecum on Siemens on August 31, 2015 and a further subpoena served on 3<sup>rd</sup> March 2016 (see attached Ex. A, B and C).
- 3) The Court granted a first motion to compel in part in a hearing held on 1<sup>st</sup> December 2015 (Exhibit D).
- 4) Documents ordered to be produced by Siemens in the first motion to compel hearing have still not been produced 8 months later.
- 5) Despite numerous repeated requests for the documents from the undersigned counsel made to Siemens' attorneys Daniel E. Rhynhart and Nicholas Harbist, only a small portion of the required Court ordered documents and have been produced and no documents from the third Subpoena (Exhibit C).
- 6) The undersigned counsel has made efforts to resolve the matter between counsel without success.
- 7) The subpoenaed items are not in the possession of the USA and are necessary for the preparation of the defense.
- 8) Much of the material must be reviewed by defense experts to aide in their report preparation.
- 9) The withholding of the subpoenaed information is causing the delay of this trial.
- 10) Defense counsel discussed limiting some of the subpoenaed items in an effort to resolve this without the need for motion practice.
- 11) Defendant cannot adequately prepare for trial without the requested items.

12) Defense counsel is respectfully requesting that Siemens Corp be compelled to promptly turn over all subpoenaed items previously ordered by the Court of Exhibits A and B attached and items of the third subpoena (Exhibit C attached).

WHEREFORE, the undersigned counsel respectfully requests that this Honorable Court grant Defendant's motion and compel Siemens Corp to provide all subpoenaed items forthwith.

**DATED** this 30th day of September, 2016.

**Alexander Burke Esq.**

/s/

By     /Alexander J. Burke/    

Alexander Burke, Esq.

Attorney & Defendant

VERIFICATION

I, Alexander Burke, hereby verify that the foregoing statements are accurate and made subject to the penalties of perjury.

/s/

By /Alexander J. Burke/

Alexander Burke, Esq.

CERTIFICATE OF SERVICE

I, hereby certify, that on this date a true and correct copy of this Motion was served upon the United States and Siemens via electronic notice.

/s/

By /Alexander J. Burke/

Alexander Burke, Esq.

# EXHIBIT A

AO 89 (Rev. 08/09) Subpoena to Testify at a Hearing or Trial in a Criminal Case

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania



United States of America

v.

Alexander Burke

Defendant

Case No. 14-565

SUBPOENA TO TESTIFY AT A HEARING OR TRIAL IN A CRIMINAL CASE

To: Eric A. Spiegel CEO  
Siemens USA  
300 New Jersey Avenue, Suite 1000  
Washington, D.C. 20001

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place shown below to testify in this criminal case. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place of Appearance: 601 Market Street  
Philadelphia, PA 19106

Courtroom No.: 5C

Date and Time: 11/03/2015 9:00 am

You must also bring with you the following documents, electronically stored information, or objects (blank if not applicable):

Please see attached.

(SEAL)

Date: \_\_\_\_\_

CLERK OF COURT

*Michael E. Jung*  
Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the attorney representing (name of party) Alexander Burke, who requests this subpoena, are:

Evan Hughes, Esquire  
1845 Walnut Street, Suite 932  
Philadelphia, PA 19103  
evan.hughes@hughesfirm.pro  
215-454-6680



AO 89 (Rev. 08/09) Subpoena to Testify at a Hearing or Trial in a Criminal Case (Page 2)

Case No. 14-585

### PROOF OF SERVICE

This subpoena for (name of individual and title, if any) \_\_\_\_\_  
was received by me on (date) \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on (date) \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
Server's signature

\_\_\_\_\_  
Printed name and title

\_\_\_\_\_  
Server's address

Additional information regarding attempted service, etc:

**Subpoena To Testify at a Hearing or Trial in a Criminal Case  
Attachment Subpoena 1**

- 1) 1. A single Table for period September 1, 2008 to May 15, 2013, showing data for IP attorneys, Alexander Burke, Peter Withstandley, Josh Ryan, Peter Kendall, Frank Montgomery with one column for each respective attorney, showing the data listed below in each column for each individual attorney,
  - a) number of US provisional patent applications filed
  - b) number of non-provisional first filing US patent applications filed
  - c) number of USPTO US Office Action responses filed including amendments, Appeal Briefs, notices of Appeal and non-amending responses.
  - d) number of legal agreements each Malvern inhouse IP attorney had responsibilities for,
  - e) number of non-provisional first filing US only applications prepared by outside counsel
  - f) cost of each non-provisional first filing US only application prepared by outside counsel
  - g) number of USPTO amendments prepared by outside counsel
  - h) cost of each USPTO amendment prepared by outside counsel
  - i) number of USPTO Appeal Briefs prepared by outside counsel
  - j) cost of each USPTO Appeal brief response prepared by outside counsel
  
- 2) Individual Tables for each year 2009, 2010, 2011, 2012, 2013 up to May 15, showing data for IP attorneys, Alexander Burke, Peter Withstandley, Josh Ryan, Peter Kendall, Frank Montgomery with one column for each respective attorney, showing the data listed below in each column for each individual attorney,
  - a) number of US provisional patent applications filed
  - b) number of non-provisional first filing US patent applications filed
  - c) number of USPTO US Office Action responses filed including amendments, Appeal Briefs, notices of Appeal and non-amending responses.
  - d) number of legal agreements each Malvern inhouse IP attorney had responsibilities for,

- e) number of non-provisional first filing US only applications prepared by outside counsel
  - f) cost of each non-provisional first filing US only application prepared by outside counsel
  - g) number of USPTO amendments prepared by outside counsel
  - h) cost of each USPTO amendment prepared by outside counsel
  - i) number of USPTO Appeal Briefs prepared by outside counsel
  - j) cost of each USPTO Appeal brief response prepared by outside counsel
- 3) A single Table for period September 1, 2008 to May 15, 2013, showing for IP attorneys, Alexander Burke, Peter Withstandley, Josh Ryan, Peter Kendall, Frank Montgomery with one column for each respective attorney, showing the data listed below in each column for each individual attorney,
- a) TOTAL of i, ii and iii below where
    - i) is number of US provisional patent applications filed
    - ii) is number of non-provisional first filing US patent applications filed and
    - iii) is number of USPTO US Office Action responses filed including amendments, Appeal Briefs, notices of Appeal and non-amending responses.
  - b) number of legal agreements of client companies of each of Alexander Burke (MR, CT, AX), Peter Withstandley, Josh Ryan, Peter Kendall, Frank Montgomery had responsibility for.
- 4) A single Table for period for 2013 and 2014 showing data for IP attorneys, Peter Withstandley, Josh Ryan,
- a) number of US provisional patent applications filed
  - b) number of non-provisional first filing US patent applications filed
  - c) number of non-provisional first filing US only applications prepared by outside counsel
  - d) cost of each non-provisional first filing US only application prepared by outside counsel
- 5) Number of legal agreements Alexander Burke had intellectual property related responsibilities for including for the US MR,CT,AX groups including number of MRAs (Master Research Agreements) and ancillary agreements.

- 6) Number of legal agreements and projects Alexander Burke worked on including for the US MR,CT,AX groups including number of MRAs (Master Research Agreements), and associated agreements as well as service agreements, patent license agreements, C2P agreements, including agreements and projects worked on in association with Michele Kessler, Neil Black, Wolfgang Nitz, Frank Helminski, Heinz-Josef Holtappels and Heinz Schmidt.
- 7) Total cost of outsourced work of Alexander Burke for each year 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013.
- 8) Copy of letter(s) signed by D. Staudt, sent from Siemens to Alexander Burke in May and June 2013.
- 9) Copy of letter(s) signed by D. Staudt, sent from Siemens to D. Caracappa in May and June 2013.
- 10) List of in-house IP attorneys working in Iselin, Malvern and Tarrytown
- 11) List of in-house Siemens US IP attorneys who have received or benefited from gifts from outside law firms or lawyers working for Siemens, including from Brinks Hofer Gilson & Lione, where the gifts include, fruit, wine, or cheese baskets from Harry and David or others.
- 12) List of in-house Siemens US IP attorneys who have received or benefited from gifts from outside law firms or lawyers working for Siemens where the gifts include free meals, and other food such as cakes or cookies.
- 13) List of type of sporting event and of in-house Siemens US IP attorneys who have received or benefited from gifts from outside law firms or lawyers working for Siemens where the gifts include tickets to the sporting event.
- 14) Ages of in-house IP attorneys working in IPD in 2007
- 15) Ages of in-house IP attorneys working in IPD in 2008, 2009, 2011, 2012, 2013, 2014

*USA v. Burke*

- 16) All email messages (inbox, sent, deleted etc.) of Alexander Burke in date order
- 17) list of All email messages in date order of Alexander Burke, email address and subject line only
- 18) Full detailed information of the severance packages for J. Codispoti, P. Lucarelli, P. Musacchio, Mark Jay.
- 19) Copies of all admissions, settlement agreements and data indicating fines paid worldwide made by Siemens worldwide to Authorities as a result of Siemens corrupt activities
- 20) Copies of all corruption related legal complaints filed worldwide against Siemens
- 21) For period April 2013 to 24 December 2014, all communications, documents, and materials concerning this case exchanged between Siemens outside law firm and Siemens
- 22) For period April 2013 to 24 December 2014, all communications, documents, and materials concerning this case exchanged between Siemens outside law firm and the FBI
- 23) All documents and materials provided in age discrimination law suit in Superior court of New Jersey Law Division: Essex County: Docket No. L7767-14 of Donald Paschburg against Siemens Corporation and Siemens employees Eric A. Spiegel and Patricia Schmidt.
- 24) Data identifying the number of settlements of age discrimination suits against all Siemens companies in the US since start of 2001.
- 25) All emails from Siemens employees to David Caracappa (search on caracappa in email address)
- 26) Data identifying the number of age discrimination suits against all Siemens companies in the US since start of 2001.
- 27) Data identifying the number of layoffs of workers in all Siemens companies in the US since start of 2001.

- 28) Salary and bonus (separately identified) for Malvern patent attorneys Peter Withstandley, Josh Ryan, Peter Kendall for 2012, 2013, 2014
- 29) Data indicating any promotions for Malvern patent attorneys Peter Withstandley, Josh Ryan, Peter Kendall for 2013 or 2014
- 30) retail cost of the Siemens MAGNETOM 3T Skyra unit (most popular configuration) in 2013, wholesale cost of the unit at import to USA, total cost of its parts in country(ies) of manufacture
- 31) Data identifying number of Siemens MRI scanners in U.S. Universities and Siemens current monopoly position comprising list of Siemens MRI scanners and universities that have them.
- 32) Financial value of all the MRI scanners provided to US universities under Master Research Agreements and amount of actual money received for these MRI scanners.
- 33) Full details of 2015 \$5.9 million settlement with US government for overcharging for medical equipment.
- 34) Data indicating the number of slave laborers from Ravensbruck concentration camp (North of Berlin) Siemens used in the Second World War and of the number of slave laborers used from Auschwitz concentration camp during this war.
- 35) Data indicating amount of war reparations Siemens paid to slave workers used during the Second World War.
- 36) Data identifying income received from electrical parts supplied to the concentration camps during the Second World War.
- 37) A copy of each document that Siemens was invoiced for and is concerned in this case. Documents being in pdf form as filed with the USPTO.
- 38) A list of each invoiced document concerned in this case, showing for each individual document, Siemens docket number, and the associated US Patent Office patent application serial number as well as patent number or patent publication number.

*USA v. Burke*

39) AnimalScan LLC, Master Research Agreement dated 11 October 2010.

# EXHIBIT B



AO 89 (Rev. 08/09) Subpoena to Testify at a Hearing or Trial in a Criminal Case

## UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania



United States of America )

v. )

Alexander Burke )

Defendant )

Case No. 14-565

## SUBPOENA TO TESTIFY AT A HEARING OR TRIAL IN A CRIMINAL CASE

To: Eric A. Spiegel CEO  
 Siemens USA  
 300 New Jersey Avenue, Suite 1000  
 Washington, D.C. 20001

**YOU ARE COMMANDED** to appear in the United States district court at the time, date, and place shown below to testify in this criminal case. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place of Appearance: 601 Market Street Philadelphia, PA 19106	Courtroom No.: 5C Date and Time: 11/03/2015 9:00 am
--	--

You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

Please see attached.

(SEAL)

Date: \_\_\_\_\_

CLERK OF COURT

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the attorney representing (*name of party*) Alexander Burke  
 \_\_\_\_\_, who requests this subpoena, are:

Evan Hughes, Esquire  
 1845 Walnut Street, Suite 932  
 Philadelphia, PA 19103  
 evan.hughes@hughesfirm.pro  
 215-454-6680

AO 89 (Rev. 08/09) Subpoena to Testify at a Hearing or Trial in a Criminal Case (Page 2)

Case No. 14-565

**PROOF OF SERVICE**

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*\_\_\_\_\_  
*Printed name and title*\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

Subpoena to Testify at a Hearing or Trial in a Criminal Case  
Attachment Subpoena 2

- 1) All Performance Appraisal and reports for Alexander Burke
- 2) All Performance Appraisal and reports for Malvern patent attorneys Peter Withstandley, Josh Ryan, Peter Kendall, Frank Montgomery
- 3) All Retainer or Engagement letters signed by D Staudt or Siemens employees, with David Caracappa.
- 4) All Guidelines for outside Counsel associated with Retainer or Engagement letters of the Intellectual Property department (IPD).
- 5) All Client survey reports for Alexander Burke
- 6) All Client survey reports for Malvern patent attorneys Peter Withstandley, Josh Ryan, Peter Kendall, Frank Montgomery
- 7) A list of US healthcare client companies of Malvern patent attorneys, Alexander Burke, Peter Withstandley, Josh Ryan, Peter Kendall, Frank Montgomery
- 8) All emails between Siemens managers or Alexander Burke with "Minimum Expectations" in the subject line around September and October 2011
- 9) List of in-house IP attorneys ceasing to work for Siemens 2007-2014
- 10) List of all personal documents and materials of Alexander Burke seized from Alexander Burke's office
- 11) List of all documents and materials provided to FBI concerning this matter
- 12) Transcript of all recorded phone conversations with Alexander Burke or David Caracappa as a party

- 13) Recordings of all recorded phone conversations with Alexander Burke or David Caracappa to be provided in electronic form e.g. on a disk
- 14) Identification of who authorized Recordings of phone conversations with Alexander Burke or David Caracappa.
- 15) Copy of letter terminating Alexander Burke's employment at Iselin and re-assigning him to Malvern
- 16) Copies of all emails from, or to, Joel Kirsch concerning this matter or concerning Alexander Burke
- 17) Copies of all documents held by Joel Kirsch concerning this matter or concerning Alexander Burke
- 18) All reports concerning analysis of Alexander Burke's Siemens computers.
- 19) All Siemens IPD monthly reports for 2008-2013
- 20) For period April 2013 to 24 December 2014, all communications, documents, and materials concerning this case exchanged between Siemens and the FBI
- 21) Alexander Burke's Siemens badge entrance and door electronic detection records at the Malvern site for 2013.
- 22) Alexander Burke's Siemens phone call occurrence records at the Malvern site for 2013.
- 23) All emails, messages, communications of any sort and records of any communications between Peter Withstandley and J. Kirsch and between Peter Withstandley and Siemens inside or outside attorneys associated in any way with this matter or Alexander Burke.
- 24) All emails, messages, communications of any sort and records of any communications between Josh Ryan and J. Kirsch and between Josh Ryan and Siemens inside or outside attorneys associated in any way with this matter or Alexander Burke.

*USA v. Burke*

- 25) All recording, transcripts of recordings or records of conversations associated in any way with this matter or Alexander Burke provided to Josh Ryan

EXHIBIT C

AO 89 (Rev. 08/09) Subpoena to Testify at a Hearing or Trial in a Criminal Case

## UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

United States of America

v.

Alexander James Burke  
Defendant

Case No. 14-565

## SUBPOENA TO TESTIFY AT A HEARING OR TRIAL IN A CRIMINAL CASE

To: Custodian of Records  
Siemens USA  
300 New Jersey Avenue, Suite 1000  
Washington, DC 20001

**YOU ARE COMMANDED** to appear in the United States district court at the time, date, and place shown below to testify in this criminal case. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place of Appearance:

601 Market Street, Philadelphia PA 19106

Courtroom No.:

Date and Time: 4/2/16 - 9am

You must also bring with you the following documents, electronically stored information, or objects (blank if not applicable):

Please see attached

(SEAL)

Date: \_\_\_\_\_

CLERK OF COURT

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the attorney representing (name of party) Bunce, who requests this subpoena, are:

Evan T.L. Hughes, Esquire  
1845 Walnut Street, Suite 932  
Philadelphia PA 19103

AO 89 (Rev. 08/09) Subpoena to Testify at a Hearing or Trial in a Criminal Case (Page 2)

Case No. \_\_\_\_\_

**PROOF OF SERVICE**

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



*USA v. Burke*

**Subpoena To Testify at a Hearing or Trial in a Criminal Case  
Schedule 1**

Document Copy Requests from Siemens by Alexander Burke for period 2002-2009 inclusive in electronic and searchable form

1. All Retainer or Engagement letters signed by D. Staudt or Siemens employees, with J. Schwartz.
2. All Guidelines for outside Counsel associated with Retainer or Engagement letters of J. Schwartz.
3. All Guidelines for outside Counsel associated with Retainer or Engagement letters of the Intellectual Property department (IPD) 2002-2009 inclusive.
4. All Client survey reports for Alexander Burke 2002-2009 inclusive.
5. All email messages (inbox, sent, deleted etc.) between Alexander Burke and Mr Schwartz with the term "schwartz" anywhere in the email address in date order.
6. Copies of all documents and materials provided to FBI by Siemens associated in any way with Mr Schwartz.
7. Copies of all emails from, or to, Joel Kirsch concerning J. Schwartz
8. Copies of all documents held by Joel Kirsch concerning J. Schwartz
9. Copies of all communications, documents, and materials concerning J. Schwartz exchanged between Siemens outside law firm and the FBI or the US Government.
10. Copies of all communications, documents, and materials exchanged between Siemens or Siemens outside law firm and Mr. J. Schwartz concerning this case.
11. All emails between J. Schwartz and Siemens employees including Siemens inventors, with the term "schwartz" anywhere in the email address in date order.
12. A list of Siemens Patent Docket Numbers identifying patent dockets associated with Alexander Burke transferred, assigned or conveyed by Siemens Health Services to Cerner Corporation or Cerner Corporation related companies.
13. All emails, messages, communications and records of any communications between Peter Withstandley and J. Kirsch and between Peter Withstandley and Siemens inside or

outside attorneys associated in any way with this matter and Jack Schwartz.

14. All emails, messages, communications of any sort and records of any communications between Josh Ryan and J. Kirsch and between Josh Ryan and Siemens inside or outside attorneys associated in any way with this matter or Jack Schwartz.
15. All email messages (inbox, sent, deleted etc.) of Alexander Burke in date order between 1st January 2001 to 1st January 2010.
16. All email messages (inbox, sent, deleted etc.) of J. Codispoti to Alexander Burke in date order between 1st January 2001 to 1st January 2004.
17. Annual total cost of patent prosecution work (Patent Applications, Amendments and Appeal Briefs) outsourced by Alexander Burke to J. Schwartz in 2002-2009 inclusive and annual total cost of patent prosecution work outsourced by Siemens US Intellectual Property Department in 2002-2009 inclusive.

**AFFIDAVIT OF PROCESS SERVER**

United States District Court for the Eastern District of Pennsylvania

United States of America

Plaintiff(s),

VS.

Alexander James Burke

Defendant(s).

Attorney: Evan Hughes, Esq.

The Hughes Firm, LLC  
1845 Walnut St., #932  
Philadelphia PA 19103



\*288130\*

Case Number: 14-565

Legal documents received by Same Day Process Service, Inc. on 03/02/2016 at 10:41 PM to be served upon Custodian of Records, Siemens USA, by serving CT Corporation System at 1015 15th St., NW, #1000, Washington, DC 20005

I, Robert Briggs-Snodgrass, swear and affirm that on March 03, 2016 at 11:38 AM, I did the following:

Served Custodian of Records, Siemens USA, by serving CT Corporation System by delivering a conformed copy of the Subpoena to Testify at a Hearing or Trial in a Criminal Case to Francisco Hernandez as Corporate Operations Specialist & Authorized Agent of Custodian of Records, Siemens USA, by serving CT Corporation System at 1015 15th St., NW, #1000, Washington, DC 20005.

Description of Person Accepting Service:

Sex: Male Age: 40 Height: 5ft4in-5ft8in Weight: 161-200 lbs Skin Color: Hispanic Hair Color: Black

Supplemental Data Appropriate to this Service:

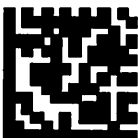
I declare under penalty of perjury that the foregoing information contained in this affidavit is true and correct and that I am a professional process server over the age of 18 and have no interest in the above legal matter.

Robert Briggs-Snodgrass  
Process Server

Same Day Process Service, Inc.  
1413 K St., NW, 7th Floor  
Washington DC 20005

(202)-398-4200

Internal Job ID: 200130



District of Columbia: SS  
Subscribed and Sworn to before me

this 4 day of March, 2016

Tyler Walker, Notary Public, D.C.  
My commission expires February 14, 2021

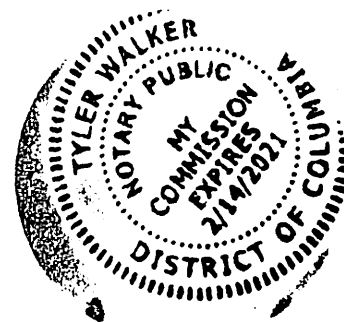


EXHIBIT D

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

ALEXANDER JAMES BURKE

Defendant.

CRIMINAL ACTION  
NO. 14-0565

**ORDER**

**AND NOW**, this 1st day of December 2015, upon consideration of Defendant's Motion to Compel (Doc. No. 42), Non-Parties Siemens Corporation and Eric A. Spiegel, Siemens' President and Chief Executive Officer, Opposition to the Motion and Cross-Motion to Quash Defendant's Subpoenas (Doc. No. 44), United States' Opposition to Defendant's Motion to Compel (Doc. No. 46), and Defendant's Reply (Doc. No. 47), it is **ORDERED** that Defendant's Motion to Compel (Doc. No. 42) is **GRANTED IN PART AND DENIED IN PART**, for reasons stated on the record by the Court at the hearing on the Motion held this day.

BY THE COURT:

/s/ Joel H. Slomsky  
JOEL H. SLOMSKY, J.

AO 89 (Rev. 08/09) Subpoena to Testify at a Hearing or Trial in a Criminal Case

## UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

United States of America

v.

Alexander James Burke  
Defendant

Case No.

14-565

## SUBPOENA TO TESTIFY AT A HEARING OR TRIAL IN A CRIMINAL CASE

To: Custodian of Records  
Siemens USA  
300 New Jersey Avenue, Suite 1000  
Washington, DC 20001

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Place of Appearance:

601 Market Street, Philadelphia PA 19106

Courtroom No.:

Date and Time: 4/2/16 - 9am

You must also bring with you the following documents, electronically stored information, or objects (blank if not applicable):

Please see attached

(SEAL)

Date: \_\_\_\_\_

CLERK OF COURT

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the attorney representing (name of party) Bunce, who requests this subpoena, are:

Evan T.L. Hughes, Esquire  
1845 Walnut Street, Suite 932  
Philadelphia PA 19103

AO 89 (Rev. 08/09) Subpoena to Testify at a Hearing or Trial in a Criminal Case (Page 2)

Case No. \_\_\_\_\_

**PROOF OF SERVICE**

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

*USA v. Burke*

**Subpoena To Testify at a Hearing or Trial in a Criminal Case  
Schedule 1**

Document Copy Requests from Siemens by Alexander Burke for period 2002-2009 inclusive in electronic and searchable form

1. All Retainer or Engagement letters signed by D. Staudt or Siemens employees, with J. Schwartz.
2. All Guidelines for outside Counsel associated with Retainer or Engagement letters of J. Schwartz.
3. All Guidelines for outside Counsel associated with Retainer or Engagement letters of the Intellectual Property department (IPD) 2002-2009 inclusive.
4. All Client survey reports for Alexander Burke 2002-2009 inclusive.
5. All email messages (inbox, sent, deleted etc.) between Alexander Burke and Mr Schwartz with the term "schwartz" anywhere in the email address in date order.
6. Copies of all documents and materials provided to FBI by Siemens associated in any way with Mr Schwartz.
7. Copies of all emails from, or to, Joel Kirsch concerning J. Schwartz
8. Copies of all documents held by Joel Kirsch concerning J. Schwartz
9. Copies of all communications, documents, and materials concerning J. Schwartz exchanged between Siemens outside law firm and the FBI or the US Government.
10. Copies of all communications, documents, and materials exchanged between Siemens or Siemens outside law firm and Mr. J. Schwartz concerning this case.
11. All emails between J. Schwartz and Siemens employees including Siemens inventors, with the term "schwartz" anywhere in the email address in date order.
12. A list of Siemens Patent Docket Numbers identifying patent dockets associated with Alexander Burke transferred, assigned or conveyed by Siemens Health Services to Cerner Corporation or Cerner Corporation related companies.
13. All emails, messages, communications and records of any communications between Peter Withstandley and J. Kirsch and between Peter Withstandley and Siemens inside or



outside attorneys associated in any way with this matter and Jack Schwartz.

14. All emails, messages, communications of any sort and records of any communications between Josh Ryan and J. Kirsch and between Josh Ryan and Siemens inside or outside attorneys associated in any way with this matter or Jack Schwartz.
15. All email messages (inbox, sent, deleted etc.) of Alexander Burke in date order between 1st January 2001 to 1st January 2010.
16. All email messages (inbox, sent, deleted etc.) of J. Codispoti to Alexander Burke in date order between 1st January 2001 to 1st January 2004.
17. Annual total cost of patent prosecution work (Patent Applications, Amendments and Appeal Briefs) outsourced by Alexander Burke to J. Schwartz in 2002-2009 inclusive and annual total cost of patent prosecution work outsourced by Siemens US Intellectual Property Department in 2002-2009 inclusive.

**AFFIDAVIT OF PROCESS SERVER**

United States District Court for the Eastern District of Pennsylvania

United States of America

Plaintiff(s),

VS.

Alexander James Burke

Defendant(s).

Attorney: Evan Hughes, Esq.

The Hughes Firm, LLC  
1845 Walnut St., #932  
Philadelphia PA 19103



\*288130\*

Case Number: 14-565

Legal documents received by Same Day Process Service, Inc. on 03/02/2016 at 10:41 PM to be served upon Custodian of Records, Siemens USA, by serving CT Corporation System at 1015 15th St., NW, #1000, Washington, DC 20005

I, Robert Briggs-Snodgrass, swear and affirm that on March 03, 2016 at 11:38 AM, I did the following:

Served Custodian of Records, Siemens USA, by serving CT Corporation System by delivering a conformed copy of the Subpoena to Testify at a Hearing or Trial in a Criminal Case to Francisco Hernandez as Corporate Operations Specialist & Authorized Agent of Custodian of Records, Siemens USA, by serving CT Corporation System at 1015 15th St., NW, #1000, Washington, DC 20005.

Description of Person Accepting Service:

Sex: Male Age: 40 Height: 5ft4in-5ft8in Weight: 161-200 lbs Skin Color: Hispanic Hair Color: Black

Supplemental Data Appropriate to this Service:

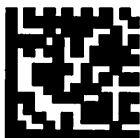
I declare under penalty of perjury that the foregoing information contained in this affidavit is true and correct and that I am a professional process server over the age of 18 and have no interest in the above legal matter.

Robert Briggs-Snodgrass  
Process Server

Same Day Process Service, Inc.  
1413 K St., NW, 7th Floor  
Washington DC 20005

(202)-398-4200

Internal Job ID: 200130



District of Columbia: SS  
Subscribed and Sworn to before me

this 4 day of March, 2016

Tyler Walker, Notary Public, D.C.  
My commission expires February 14, 2021

